

rules applying to Chapter 273-C and the Association has failed to provide sufficient signatures to show requisite employee interest in representation by the Association. International Union of Allied Novelty and Production Workers Union, Local 10 (Local 10) filed its exception dated April 26, 1994 objecting that the Association is not an employee organization as defined in RSA 273-C:2, that the Union has the right to exclusive representation during the term of the collective bargaining agreement and that the petition filed by the Association was untimely filed as it was not submitted within the window period of RSA 273-C:11 I (b) and, further, that no election should be held other than an election for employees to approve the effects of a purported merger of Local 402, the former exclusive employee representative, and Local 10. There is no dispute that a collective bargaining agreement (CBA) existed between Yankee Greyhound Racing and Allied, Novelty and Production Workers Union, AFL-CIO Local 402 for the period, February 6, 1991 to April 1, 1994. Local 402 is now defunct and no new agreement has been executed. Local 10 considers itself the successor of Local 402 notwithstanding an absence of any evidence that members of Local 402 ever voted to become so affiliated.

The case was heard by the PELRB on May 24, 1994 and at which time the above mentioned CBA was taken into evidence. Local 10 was not represented at the hearing; Chairman Haseltine read the letter of William A. Widmer, III, its counsel, dated May 23, 1994 into the record. The parties proceeded to present their respective arguments after which the PELRB deliberated and issued its decision based on the following facts, including reference to Teamsters Local 633 of New Hampshire and Rockingham Venture, Inc. and International Union of Allied Novelty and Production Workers Union, Local 10. Dec. No. 93-121 (October 6, 1993).

FINDINGS OF FACT

1. Yankee Greyhound Racing, Inc. is an "employer" within the meaning of RSA 273-C:2 IV. It operates a dog track in Seabrook, New Hampshire where it employs numerous personnel.
2. Seabrook Dog Track Employees Association has filed a petition seeking certification of a bargaining unit with the intention of serving as its exclusive representative in bargaining with the employer.
3. International Union of Allied Novelty and Production Workers, Local 402, AFL-CIO was a labor organization which ceased to exist during the spring of 1993. Local 402 had negotiated and was party to a contract with Yankee Greyhound Racing referred to above which covered the period February 6, 1991 through March 31, 1994.

4. Local 402 had obtained its certification by operation of RSA 273-C:9 IV and RSA 273-C:11 III which allowed recognition of a functioning bargaining unit at the date of enactment of RSA 273-C, July 31, 1990. No certification election has ever been held at Seabrook Dog Track.
5. Noting its decision in Rockingham, Decision No. 93-121, the Board referred to the letter of April 2, 1993, from Dennis Mascolo, Secretary-Treasurer of the International Union, Allied Novelty and Production Workers to Ed Callahan, General Manager of Rockingham Park informing him of the merger of Local 402, headquartered in Danvers, MA, into Local 10 headquartered in Chicago. The merger was effective April 1, 1993 with no involvement of or approval by officers or members of the New Hampshire bargaining units.

DECISION AND ORDER

The Board's decision and order, as issued on May 24, 1994, are memorialized as follows:

The Board rejected the contention that the Association's petition was untimely under RSA 273-C:11 I (b). Local 10 did not appear or establish its status as an incumbent. The Board determined no encroachment had occurred. The Board did not recognize the merger of Local 402 into Local 10 as a proper merger since no process has been shown to have been observed which involved local members. No window period is required in the absence of an incumbent.

The Board informed the parties that its ruling in Rockingham obtained on the matter of application of rules. The rules adopted effective August 4, 1993 extend to RSA Chapters 273-A and C.

The bargaining unit as modified at the hearing is accepted as consistent with RSA 273-C:8 and shall consist of one hundred twenty-six (126) members to include all full-time and regular part-time mutual clerks, leadouts, admissions employees, parking lot attendants including preferred parking, and maintenance employees including racing oval maintenance positions.

The PELRB directed that an election be held to certify the selection of a bargaining agent, if any. Any employee organization other than the petitioner, which has already supplied an ample showing of interest, wishing to appear on the ballot as an intervenor may file a petition accompanied by the requisite twenty per cent (20%) signatures pursuant to Rule PUB 301.01. Chairman Haseltine extended the filing period through 4 p.m. on June 24,

1994. Thereafter, a date shall be set for an election to be held in accordance with RSA 273-C:10.

So ordered.

Signed this 6th day of July 1994.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding.
Members Richard Roulx and Richard Molan present and voting.